

EXHIBIT 1

INTRODUCTION

This matter pertains to Case No. 05/212, which involves Respondent William G. Horn (“Respondent Horn”) and Friends of Bill Horn Committee (“Respondent Committee”). Respondent Horn currently serves as a San Diego County Supervisor.

This case relates to a Franchise Tax Board (“FTB”) audit of Respondent Committee for the period of January 1, 1999 through June 30, 2002. Respondent Horn was a successful incumbent candidate in the March 5, 2002 election for Supervisor of the San Diego County Board of Supervisors. Respondent Committee, which terminated effective December 31, 2002, was controlled by Respondent Horn. In addition, at all times relevant to this matter, Respondent Ralph Jensen served as Respondent Committee’s treasurer. During the period covered by the audit, Respondent Committee reported receiving contributions totaling \$336,766 and making expenditures totaling \$327,635. Enforcement Division staff confirmed FTB’s findings that the Respondents substantially complied with the recordkeeping and campaign disclosure requirements of the Political Reform Act (the “Act”)¹, but nonetheless violated several of the Act’s campaign provisions.

This case also relates to Respondent Horn’s failure to disclose sources of income on his 2004 and 2005 Statements of Economic Interests (“SEIs”).

For purposes of this Stipulation, Respondents’ violations of the Political Reform Act can be stated as follows:

- COUNT 1:** Respondent Horn made a cash expenditure of \$100 or more directly from his personal funds for campaign-related matters, totaling \$1,500, on or about February 15, 2002, in violation of Section 85201, subdivisions (d) and (e), and Section 84300, subdivision (b).
- COUNT 2:** On or about March 13, 2002, Respondents made an expenditure to Respondent Horn totaling \$851 that was not directly related to a political, legislative, or governmental purpose, in violation of Section 89512.
- COUNT 3:** Respondents failed to disclose two expenditures of \$100 or more to Respondent Horn, totaling \$939, in a pre-election campaign statement for the reporting period of January 20, 2002 through February 16, 2002, filed on or about February 21, 2002, in violation of Section 84211, subdivisions (i) and (k).

¹The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 4: Respondents failed to disclose three expenditures of \$100 or more to Respondent Horn, totaling \$10,360, in a semi-annual campaign statement for the reporting period of February 17, 2002 through June 30, 2002, filed on or about July 22, 2002, in violation of Section 84211, subdivisions (i) and (k).
- COUNT 5: On March 30, 2005, Respondent Horn failed to disclose sources of income related to Respondent's Escondido, Ca. and San Marcos, Ca. apartment buildings and Respondent's Carlsbad, Ca. residence on his 2004 annual Statement of Economic Interests, in violation of Sections 87203 and 87207.
- COUNT 6: On February 1, 2006, Respondent Horn failed to disclose sources of income related to Respondent's Escondido, Ca. and San Marcos, Ca. apartment buildings on his 2005 annual Statement of Economic Interests, in violation of Sections 87203 and 87207.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

Another express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that assets and income of public officials, which may be materially affected by their official actions, should be disclosed in order that conflicts of interest may be avoided.

Duty to Disclose Expenditures on Campaign Statements

Section 82013, subdivision (a), defines a "committee" as including any person who receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year. This type of committee is commonly referred to as a "recipient committee." Under Section 82016, a recipient committee controlled by a candidate is a controlled committee.

Section 84211, subdivision (i), requires candidates and their controlled committees to disclose the total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more. Section 84211, subdivision (k), further requires that certain information be provided for each person to whom an expenditure of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement, including the following: (1) the payee's full name; (2) the payee's street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made.

Prohibition Against the Personal Use of Campaign Funds

All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office. (Section 89510, subd. (b).) An expenditure to seek office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a political purpose. (Section 89512.) However, expenditures that confer a substantial personal benefit must be *directly related* to a political, legislative, or governmental purpose. (Section 89512.) A “substantial personal benefit” means an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee. (Section 89511, subd. (b)(3).)

Prohibition Against Making Cash Expenditures of \$100 or More

Under Section 84300, subdivision (b), no expenditure of one hundred dollars or more may be made in cash.

One Campaign Bank Account Requirement

Section 85201, subdivision (a), requires a candidate to establish a single campaign bank account upon filing a statement of intention to run for public office. Section 85201, subdivision (d) provides that any personal funds that will be used to promote the election of the candidate must be deposited in the campaign bank account prior to expenditure. Subject to certain exceptions that are not applicable to this matter, Section 85201, subdivision (e), requires that all campaign expenditures be made from the campaign bank account.

Liability of Committee Treasurers

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (a), it is the duty of a committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

Failure to Disclose Economic Interests

Under Section 87203, members of the board of supervisors are required to file an annual Statement of Economic Interests at a time specified by Commission regulations, disclosing their investments, interests in real property, and income.

When income is required to be reported in an SEI, Section 87207 requires the statement

to contain the name and address of each source of income to the filer aggregating \$500 or more in value, and a general description of the business activity, if any, of each source; the aggregate value of income received from each source, and a description of the consideration, if any, for the income. In addition, when a filer's pro rata share of income to a business entity is required to be reported, the statement shall contain the name, address, and a general description of the business activity of the business entity and the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from that person was equal to or greater than \$10,000 during a calendar year.

SUMMARY OF THE FACTS

The campaign matter (Counts 1- 4) arose from an FTB audit of Respondent Committee for the period of January 1, 1999, through June 30, 2002. Respondent William G. Horn was a successful incumbent candidate in the March 5, 2002 election for Supervisor of the San Diego County Board of Supervisors. Respondent Committee, which terminated effective December 31, 2002, was controlled by Respondent Horn. In addition, at all times relevant to this matter, Respondent Ralph Jensen served as Respondent Committee's treasurer. During the period covered by the audit, Respondent Committee reported receiving contributions totaling \$336,766 and making expenditures totaling \$327,635.

The second matter arose from two complaints received in March and May of 2006 alleging that Respondent Horn failed to properly report sources of income on his SEIs. On March 30, 2005 and February 1, 2006, Respondent Horn filed SEIs for the years 2004 and 2005, respectively. On both statements, Respondent Horn listed that his business trust, the Horn Trust, had an ownership interest in rental property located in San Marcos, California and three rental properties located in Escondido. Respondent Horn disclosed on both SEIs that the Horn Trust received combined income of over \$100,000 for the four rental properties. On both statements, Respondent Horn also listed an ownership interest in a single-family residence located in Carlsbad, California. In September 2004, Joan Wonsley purchased an interest in this property by making a \$349,261.38 payment to Respondent Horn.

Respondent Horn did not disclose the names or addresses of the tenants who paid \$10,000 or more in rent to the Horn Trust on his 2004 and 2005 SEIs Respondent Horn voluntarily amended his 2004 and 2005 SEIs to disclose the names of twenty-five tenants of the Horn Trust's four apartment buildings on April 5, 2006. On his 2004 SEI, Respondent Horn also added Joan Wonsley as a source of income of over \$100,000 in connection with her purchase of an interest in the Carlsbad property in September 2004.

COUNT 1 **Failure to Deposit Personal**

Funds into Campaign Bank Account and Making Cash Expenditures of \$100 or More

Respondent Horn was required to deposit into Respondent Committee's campaign bank account, any personal funds that would be used to promote his election. In turn, Respondent Horn was required to make all campaign expenditures from the campaign bank account. During the reporting period of January 1, 2002 through February 16, 2002, Respondent Horn used \$1,500 of his personal funds, in the form of cash, to compensate individuals who erected and removed campaign signs to promote his election.

By spending his personal funds to promote his election without first depositing them into the campaign bank account or making the expenditure directly from Respondent Committee's campaign bank account, Respondent Horn violated Section 85201, subdivision (d). Further, by making a cash expenditure of \$100 or more, Respondent William Horn violated Section 84300, subdivision (b).

COUNT 2 Making An Expenditure Not Directly Related to a Political, Legislative, or Governmental Purpose

All contributions deposited into Respondent Committee's campaign account were held in trust for expenses associated with Respondent Horn's election or for expenses associated with his holding office. (Section 89510, subd. (b).) Expenditures for Respondent Horn to seek office were within the lawful execution of the trust imposed by Section 89510 as long as they were reasonably related to a political purpose. (Section 89512.) If, however, any expenditure conferred a substantial personal benefit on Respondent Horn, that expenditure was required to be *directly related* to a political, legislative, or governmental purpose. (Section 89512.)²

In this matter, on March 13, 2002, Respondents made an expenditure to Respondent Horn totaling \$851 which constituted a second reimbursement to Respondent Horn for expenditures for which he had previously been reimbursed by Respondents. By making an expenditure not directly related to a political, legislative, or governmental purpose that conferred a substantial personal benefit on Respondent Horn, Respondents violated Section 89512.

COUNT 3 Failure to Disclose Campaign Expenditures of \$100 or More In a Pre-election Statement

² A "substantial personal benefit" means an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee. (Section 89511, subd. (b)(3).)

In connection with the March 5, 2002 election, Respondents filed a first pre-election campaign statement for the reporting period of January 20, 2002 through February 16, 2002, on or about February 21, 2002. Respondents were required to disclose on the statement each expenditure of \$100 or more made during the period covered by the statement as well as the full name and street address of the payee, the amount of the expenditure, and a brief description of the consideration for which each expenditure was made. Nonetheless, Respondents failed to disclose a January 19, 2002 expenditure to Respondent Horn of \$516 and a February 16, 2002 expenditure to Respondent Horn of \$423.

By failing to disclose the two expenditures to Respondent Horn, totaling \$939, Respondents violated Section 84211, subdivisions (i) and (k).

COUNT 4
**Failure to Disclose Campaign Expenditures of \$100 or More
in a Semi-annual Statement**

In connection with the March 5, 2002 election, Respondents filed a semi-annual campaign statement for the reporting period of February 17, 2002 through June 30, 2002, on or about July 22, 2002. Respondents were required to disclose on the statement, each expenditure of \$100 or more made during the period covered by the statement as well as the full name and street address of the payee, the amount of the expenditure, and a brief description of the consideration for which each expenditure was made. Nonetheless, Respondents failed to disclose the following three expenditures to Respondent Horn, which were made during the reporting period: \$388, \$1,402, and \$8,570.

By failing to disclose the three expenditures to Respondent Horn, totaling \$10,360, Respondents violated Section 84211, subdivisions (i) and (k).

COUNTS 5 and 6
Failure to Disclose Economic Interests

As a member of the San Diego Board of Supervisors, Respondent Horn was required by Section 87203 to file annually a Statement of Economic Interests that discloses his investments, interests in real property, and income. Under Section 87207, subdivision (b)(2), Respondent Horn was required to report all sources of income and specifically to itemize, on his annual SEI statement, each source of rental income who paid the Horn Trust \$10,000 or more during the year.

On March 30, 2005 and February 1, 2006, Respondent Horn filed SEIs for the years 2004 and 2005, respectively. On both statements, Respondent Horn listed that his trust, the Horn Trust, had an ownership interest in an apartment building located in San Marcos, California and three apartment buildings located in Escondido, California. Respondent Horn also listed that the Horn Trust received over \$100,000 in rental income on both SEIs. The SEI statements required

Respondent Horn to list each source of rental income that paid the Horn Trust \$10,000 or more. Respondent Horn did not provide, on the SEIs he filed, the names or addresses of the tenants who paid \$10,000 or more in rent to the Horn Trust. Respondent Horn also failed to disclose on the 2004 SEI he filed, Joan Wonsley as a source of income of \$100,000 or more, resulting from her purchase of a property interest in the residence located in Carlsbad, California.

Ultimately, Respondent Horn disclosed the names of twenty-five tenants who resided in the San Marcos and Escondido apartment buildings on April 5, 2006, when he voluntarily filed amended SEIs for the years 2004 and 2005. He also reported Joan Wonsley as a source of income on his 2004 SEI.

By failing to disclose Joan Wonsley as a source of income and the sources of rental income to the Horn Trust on his 2004 SEI filed on March 30, 2005, and by again failing to disclose the sources of rental income to the Horn Trust on his 2005 annual SEI filed on February 1, 2006, Respondent Horn twice violated Sections 87203 and 87207.

CONCLUSION

This matter consists of six counts of violating the Act, which carry a maximum administrative penalty of \$5,000 per violation, for a total of \$30,000.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or absence of any intention to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Act or similar laws; and whether the Respondent upon learning of the violations voluntarily filed appropriate amendments to provide full disclosure.

Count 1 involves interrelated violations of the one campaign bank account rule and prohibition against the expenditure of \$100 or more in cash. Such violations are serious and depending upon the circumstances of each case, result in penalties near the maximum allowable penalty. In aggravation, the violations in this matter reflect a level of inattention and negligence to long-standing campaign finance requirements. In mitigation, the amounts at issue were relatively small in light of Respondent Committee's reported campaign expenditures for the audit period. Accordingly, based on the facts, an administrative penalty of \$3,000 is warranted for Count 1.

Count 2 involves the personal use of campaign funds and is therefore a serious violation.

In mitigation, Respondents have no prior history of violating the Act's personal use provisions and the violations appear to have resulted from negligence. Accordingly, an administrative penalty of \$2,500 dollars is warranted. In further mitigation, Respondent Horn has agreed as part of this Stipulation to pay back the \$851. Because Respondent Committee is terminated, payment will be made to the State of California General Fund.

Counts 3 and 4 involve campaign reporting violations. The public harm inherent in these types of violations, where pertinent information is not disclosed, is that the public is deprived of important information such as the sources and amounts of contributions to a campaign, the amounts expended by the campaign, and information about the recipients and reasons for the expenditures. The typical administrative penalty for this type of violation has varied based on the circumstances of the violation, such as the total dollar amount not reported and whether the information should have been reported on a pre-election or post-election campaign statement.

Regarding Count 3, the subject expenditures were timely disclosed in the appropriate campaign statement but, the disclosure took place in a section reserved for unitemized expenditures of less than \$100. Because the expenditures to Respondent Horn were each \$100 or more, they should have been disclosed as such in the areas designated for itemizing expenditures of \$100 or more. In mitigation, the amounts at issue were relatively small (2%) in light of Respondent Committee's reported campaign expenditures for the audit period and Respondents have no prior history of violating the Act's disclosure requirements. Accordingly, an administrative penalty of \$1,500 is warranted for Count 3.

Similarly, regarding Count 4, \$1,790 of the total \$10,360 in subject expenditures were timely disclosed in the appropriate campaign statement but, the disclosure took place in a section reserved for unitemized expenditures of less than \$100. Because the expenditures to Respondent Horn were each \$100 or more, they should have been disclosed as such in the areas designated for itemizing expenditures of \$100 or more. In further aggravation, Respondents completely failed to disclose an \$8,570 expenditure. In mitigation, Respondents have no prior history of violating the Act's disclosure requirements. Accordingly, an administrative penalty of \$2,000 is warranted for Count 4.

Respondents cooperated fully with both FTB and the Enforcement Division during the FTB audit of Respondent Committee and the Enforcement Division proceedings. In response to the FTB audit that brought these violations to light, Respondent Horn hired a professional treasurer with respect to his campaign for election to the San Diego County Board of Supervisors in June 2006.

In reference to Counts 5 and 6, Respondent Horn failed to make all of the required disclosures on his 2004 and 2005 SEIs, which deprived the public of knowledge about all of his economic interests. Specifically, Respondent Horn failed to disclose, on his 2004 and 2005 SEIs, twenty-five individuals who paid the Horn Trust \$10,000 or more in rent annually. Therefore, Respondent Horn failed to itemize annual rental income of at least \$250,000 that the Horn Trust received in 2004 and 2005 from the apartment tenants who resided in the Escondido

and San Marcos, California, properties. In mitigation, Respondent Horn reported the rental income in his amended 2004 and 2005 SEI forms which he voluntarily filed on April 5, 2006 prior to any intervention by the Commission. In addition, we are not aware that Respondent Horn made or participated in the making of any decisions involving the tenants.

In reference to Count 5, Respondent Horn also failed to disclose, on his 2004 SEI, payments from Joan Wonsley related to the Carlsbad property. In mitigation, Respondent Horn reported in his amended 2004 SEI, filed on April 5, 2006, that Ms. Wonsley paid him over \$100,000 for an interest in the Carlsbad property. In further mitigation, Respondent Horn voluntarily amended his 2004 and 2005 statements prior to any intervention by the Commission. Accordingly, the facts of this case justify the imposition of an administrative penalty of \$1,500 each for Counts 5 and 6.

Accordingly, the facts of Case No. 05/212 justify an imposition of an administrative penalty of Twelve Thousand Dollars (\$12,000) and Respondent Horn's additional payment of \$851 to the General Fund with regard to the violations of Count 2.